
IN THE
SUPREME COURT OF THE UNITED STATES

NO. 76-398

THE CITIZENS AND SOUTHERN NATIONAL BANK,
Petitioner,

vs.

NICK BOUGAS,
Respondent.

RESPONSE IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI
To the Court of Appeals of the
State of Georgia

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The writ of certiorari should be denied because the Court of Appeals has correctly determined the issue. It should be pointed out that this Honorable Court denied certiorari in a case involving exactly the same issue earlier this year. Holson v. Gosnell, 264 S.C. 619, 216 S.E.2d 539 (1975) cert. denied, 423 U.S. 1048 (1976).

The two most significant bases on which the issue could be decided and supporting authority is set forth below.

(1) That by the establishment of a branch bank in a county, a national bank presumably waives any questions of venue raised by 12 U.S.C. § 94. This aspect was broached by the Court of Appeals in its decision and has been the basis of deciding this issue in other jurisdictions. Lapinsohn v. Lewis Charles, Inc., 212 Pa. Super. 185, 240 A.2d 90, cert. denied 393 U.S. 952 (1968); Security Mills of Asheville, Inc. v. Wachovia Bank & Trust Co., 281 N.C. 525, 189 S.E.2d 266 (1972) (alternative holding.); Reeves v. Bank of America, 352 Fed. Supp. 745, (1973 D.C. Cal.); Frankfurt Supply Co. v. Mateau, 320 Fed. Supp. 794.

(2) The other basis on which the decision is appropriate is that a national bank is "located" in

any county in which it operates and maintains branches within the provisions of the statute. Security Mills of Asheville, Inc. v. Wachovia Bank and Trust Co., supra; Holson v. Gosnell, supra; Central Bank v. Superior Court, 30 Cal. App. 3d 962, 106 Cal. Rptr. 912 (1973).

In conclusion, there is reasonable basis for the decision of the Court of Appeals and authority from other jurisdictions arriving at the same conclusion; and the issue is the same one as before this Court less than a year ago in the Holson case, at which time this Court deemed it appropriate to deny the writ, and respondent would contend that the situation has not changed since the Court denied the petition for certiorari in the Holson case.

WHEREFORE, for the foregoing reasons, the
petition for certiorari should be denied.

Respectfully submitted,

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